

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION

Case No. 0:18-cv-01776-JRT-HB

This Document Relates To:
Direct Purchaser Plaintiff and Direct
Action Plaintiff Actions

**DECLARATION OF BRIAN D.
CLARK IN SUPPORT OF
DIRECT PURCHASER
PLAINTIFFS' MEMORANDUM IN
SUPPORT OF MOTION FOR
ENTRY OF A
SET-ASIDE ORDER**

I, Brian D. Clark, declare:

1. I am an attorney with the firm of Lockridge Grindal Nauen P.L.L.P. ("LGN"), the Court-appointed co-lead counsel for Direct Purchaser Plaintiffs.
2. I submit this declaration in support of Direct Purchaser Plaintiffs' Memorandum in Support of Motion for Entry of a Set-Aside Order. I have personal knowledge of the facts in this declaration and could competently testify to them if called as a witness.
3. On June 14, 2019, a related direct action complaint was filed on behalf of Winn-Dixie Stores, Inc. and Bi-Lo Holdings, LLC.
4. On December 22, 2020, a related direct action complaint was filed on behalf of Cheney Brothers, Inc.
5. In a similar case, *In re Broiler Chicken Antitrust Litig.*, No. 1:16-cv-08637 (N.D. Ill.), a pattern emerged where numerous direct action cases were filed following the order on Defendants' motions to dismiss dated November 20, 2017.

6. In *Broiler Chicken*, in May 2018, DPP Counsel became aware that class members were receiving misleading solicitations and statements from certain counsel for Direct Action Plaintiffs (“DAPs”). DPP Counsel engaged in numerous communications with those DAP Counsel to correct and stop the misleading statements and solicitation of direct purchaser class members. These efforts were not successful in correcting the misleading solicitations, and DPP Counsel brought the issue to the attention of the Court.

7. Since that time, numerous additional DAP actions have been filed in *Broiler Chicken* and continue to be filed.

8. Attached hereto as Exhibit A is a true and accurate copy of the Order Granting Motion for a Set-Aside in *In re Lidoderm Antitrust Litig.*, No. 3:14-md-02521, ECF No. 742 (N.D. Cal.) (Orrick, J.).

9. Attached hereto as Exhibit B is a true and accurate copy of Pretrial Order No. 6 Common Benefit Order in *In re Guidant Defibrillators Prods. Liab. Litig.*, MDL No. 05-1708, ECF No. 56 (D. Minn.) (Frank, J.).

10. Attached hereto as Exhibit C is a true and accurate copy of Pretrial Order No. 25 in *In re Baycol Prods. Litig.*, MDL No. 1431 (D. Minn.) (Davis, J.).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 5, 2021, at Minneapolis, Minnesota.

s/ Brian D. Clark
Brian D. Clark